

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CommScope, Inc., CommScope Inc. of)	
North Carolina, and CommScope)	
Technologies, LLC,)	
))	
Plaintiffs,))	
))	
v.))	
))	
Rosenberger Technology (Kunshan) Civil Action No. 19-cv-15962-JXN-	
Co. Ltd., Rosenberger Asia Pacific) LDW	
Electronic Co., Ltd., Rosenberger)	
Technology LLC, Rosenberger USA)	
Corp., Rosenberger North America)	
Pennsauken, Inc., Rosenberger Site)	
Solutions, LLC, Rosenberger)	
Hochfrequenztechnik GmbH & Co.)	
KG, Northwest Instrument, Inc.,)	
CellMax Technologies AB,)	
))	
Defendants.))	
))	

**DECLARATION OF MICHAEL S. DEVINCENZO IN SUPPORT OF
JOINT MOTION OF ALL PARTIES FOR RECONSIDERATION OF THE
DENIAL OF THE REQUESTED EXTENSION BASED ON NEW
INFORMATION, OR, IN THE ALTERNATIVE, TO STAY THE
LITIGATION**

I, Michael S. DeVincenzo, declare as follows:

1. I am a Partner at King & Wood Mallesons LLP, admitted to practice in the state of New York and *pro hac vice* in this matter, and am one of the attorneys of record for the defendants in this case. I make this declaration based upon my personal knowledge and am competent to testify as to the matters stated herein.

2. I have attempted to determine whether travel documents could be obtained in China for the purposes of deposition. It is my understanding that travel is not permitted, and documents could not be obtained for travel at this time. It is unclear when individuals will be able to receive travel documents for non-emergency travel.

3. CommScope's witnesses in China—including Li Yuemin, Wu Ligang, and Xu Guolong—are believed to be the principal source of testimony concerning whether CommScope's alleged trade secrets may be considered protected trade secrets. I understand and believe that the requested witnesses' testimony will be relevant to Rosenberger's defenses based on CommScope's treatment of its own alleged trade secrets.

4. The parties have been working diligently to plan for depositions including identifying witnesses, exchanging Rule 30(b)(6) deposition notices and objections, and conducting numerous lengthy discussions about depositions. On these calls, the parties attempted to resolve discovery disputes and canvassed each other in an attempt to come up with a workable solution that would allow the parties to obtain the discovery necessary for this litigation by the end of fact discovery as presently ordered. Indeed, prior to the present outbreak, Rosenberger and CommScope were intending to address the problems associated with depositions being illegal in Mainland China by having employees/witnesses travel internationally for

depositions. That solution is not presently workable. Yet, the parties have not been able to devise a practical alternative plan to conduct depositions before the scheduled end of fact discovery. The meet and confers have led to numerous agreements that will help generally for discovery and specifically for depositions to move forward efficiently. Specifically, the parties have:

- exchanged the names of foreign and domestic witnesses;
- exchanged Rule 30(b)(6) deposition notices and objections for the 10 parties involved in this litigation;
- participated in meet-and-confer calls regarding those notices and objections;
- exchanged proposed dates for the more than 50 Rule 30(b)(1) depositions that will be taken between this case and the Delaware patent case;
- agreed on the number of hours for translated depositions;
- agreed on a “joint-use” agreement that will allow the use of information in both this case and the Delaware patent case, while respecting the discovery confidentiality orders entered in each case;
- taken steps to resolve the parties’ disputes regarding Rosenberger’s compliance with this Court’s orders dated September 21, 2021 (Dkt. 471), and February 17, 2022 (Dkt. 511), and are continuing to work through related issues

5. Attached as Exhibit A is a true and correct copy of an April 14, 2022, email from Alicia Yu, Vice President of Legal at Rosenberger Technology (Kunshan) Co. Ltd. (dba Prose).

6. Attached as Exhibit B is a true and correct copy of an April 11, 2022 CNBC article titled, “U.S. State Department orders all non-emergency government staff in Shanghai to leave as Covid surges.”

I declare under penalty of perjury under the laws of the United States that to
the best of my knowledge and recollection the foregoing is true and correct.

/s/ Michael S. DeVincenzo
Michael S. DeVincenzo

Executed this 14 day of April 2022.

Exhibit A

From: [Alicia Yu\(Yu Haiying\)](#)
To: [DeVincenzo, Michael \(US\)](#); [Petroric, John \(US\)](#); [Roy Liu\(Liu Yi\)](#); [shanghong](#); [Riebsamen, Gabriel](#); [Daniel Galvis](#); [Katie Zheng\(Zheng Lan\)](#); [Rosenberger NJ](#); [Rosenberger DE](#)
Subject: Rosenberger Kunshan (Information Regarding Lockdowns and Employees)
Date: Thursday, April 14, 2022 9:56:49 AM
Attachments: [image001.png](#)

Hi Mike,

Rosenberger Technology (Kunshan) Co. Ltd.'s facilities are located in Kunshan, Jiangsu, China, which is approximately 40 miles west of Shanghai. Kunshan is currently in lockdown for COVID, residents must stay at home. Currently, the Rosenberger Kunshan facility is not operating due to the lockdown. We do not know when that facility will reopen. However, with the recently implemented zero-COVID policy we expect the lockdown will last for some time.

Among the nine Rosenberger Kunshan employees that will be deposed in this litigation, two Rosenberger Kunshan employees who will be deposed, Aili Liu and Jing Sun, live in Shanghai. The remaining witnesses live in Suzhou, Jiangsu province, where Kunshan is located. Presently, both Suzhou, Jiangsu and Shanghai are subject to lockdowns. Under the current lockdowns in effect, citizens are not allowed to go outside their home except in very special circumstances like serious illness. The closest airport for Rosenberger Kunshan employees would be from Shanghai airports for any overseas travel.

I got some information on each employee subject to deposition and, as detailed below, many of the employees have family situations that would make leaving impractical. Please note that employees at the present time are more concerned with things of life like access to living essentials like food, drinkable water, medicine and their families' health than their prospect of international travel for work.

1. Li Fan has a daughter under a year old. Ms. Fan is concerned that a one-month absence will lead to separation anxiety in her daughter and lead to worse impacts on her sense of security. She informed me she believes that the parent-child relationship is critically important for an infant.

2. Qian Hanyu and his wife care for two young children. His youngest child is 14 months old and requires full-time care. His wife works fulltime and her job often requires overtime. Given these conditions, he has indicated that a long separation from his family would be unworkable.

3. Tao Jiang's wife is expecting a baby. In addition his wife will need help after the baby is born. Given these circumstances, he has indicated that the quarantine restrictions would place a real and substantial burden on him and his family.

4. Aili Liu is a United States citizen. She has indicated that returning to China is extremely difficult for her. Early in the pandemic outbreak, Ms. Liu was forced to live outside of China for over 18 months. In addition, she has indicated that she is in a high-risk group for COVID and does not feel comfortable traveling abroad with COVID levels where they are at right now.

5. Lishao Cai and his wife are responsible for two children and the care of two elderly relatives at home. He has indicated that if he were forced to quarantine, it would present a real and substantial burden on his wife and family.

6. Zhongcao Yang and his wife are responsible for two children. His wife works full time. He has indicated that if he had to quarantine there will be periods where they will have no one to care for their children.

7. Sun He and his wife are responsible for two children and his wife's parents who are in poor health. His wife has a full-time job and he has indicated that he would not be able to quarantine without extensive help for his family.

I hope this is sufficient of the Court as I do not have access to everything I typically would. Please note the recent lockdowns have had rather drastic effects on the every-day life of the employees. If the

Court needs additional information, please let us know. We appreciate kind consideration from the Court on the factual difficulties of said employees of Rosenberger Kunshan.

Thanks a lot.

Best regards!

Alicia Yu 于海鹰

Legal VP



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Exhibit B

4/14/22 10:00 PM U.S. State Department orders all non-emergency government staff in Shanghai to leave as Covid surges

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POLITICS

U.S. State Department orders all non-emergency government staff in Shanghai to leave as Covid surges

PUBLISHED MON, APR 11 2022 8:56 PM EDT UPDATED TUE, APR 12 2022 1:18 PM EDT

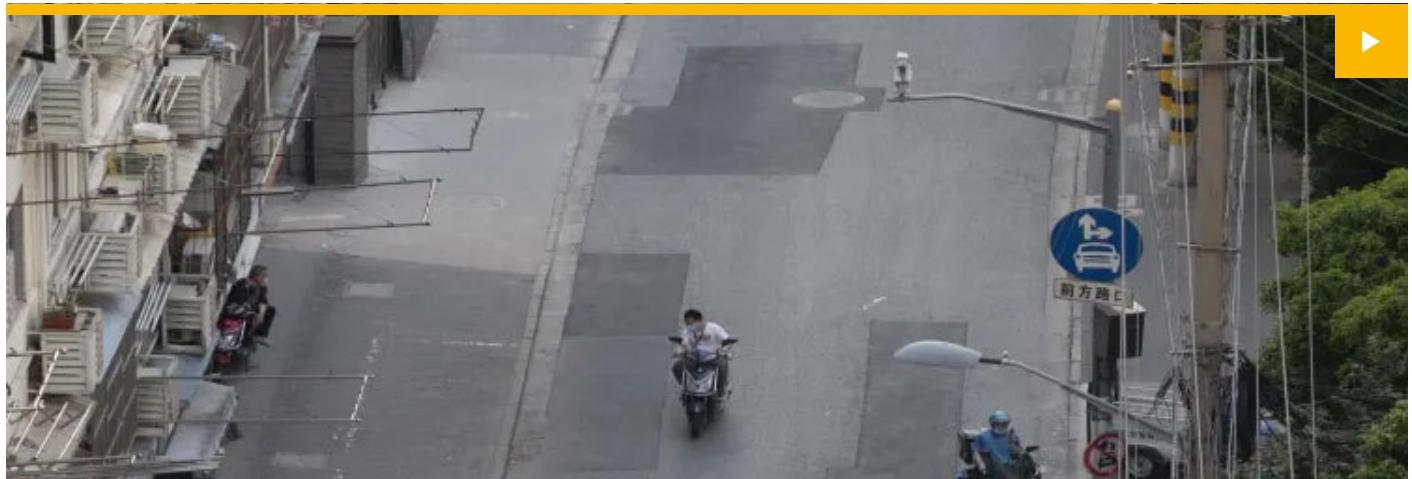


Evelyn Cheng
@CHENGEVELYN

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KEY POINTS

- The U.S. State Department has ordered all non-emergency government staff and their family members in Shanghai to leave as Covid surges.
- The department had issued a travel advisory on April 8 warning U.S. citizens about “arbitrary enforcement of local laws” and Covid-19 restrictions.
- On Saturday, Chinese Foreign Ministry spokesperson Zhao Lijian said the U.S. characterization of China’s Covid policy was a “groundless accusation” and that the Chinese side has assisted foreign diplomats and consular staff on Covid-related issues as much as policy allowed.



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4/14/22, 8:00 PM U.S. State Department has ordered all non-emergency government staff in Shanghai to leave as Covid surges


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Shanghai faces Covid surge amid already tight lockdowns

The U.S. State Department has ordered all non-emergency government staff and their family members in Shanghai to leave as Covid surges and told U.S. citizens to reconsider travel to China, according to an [announcement dated April 11](#).

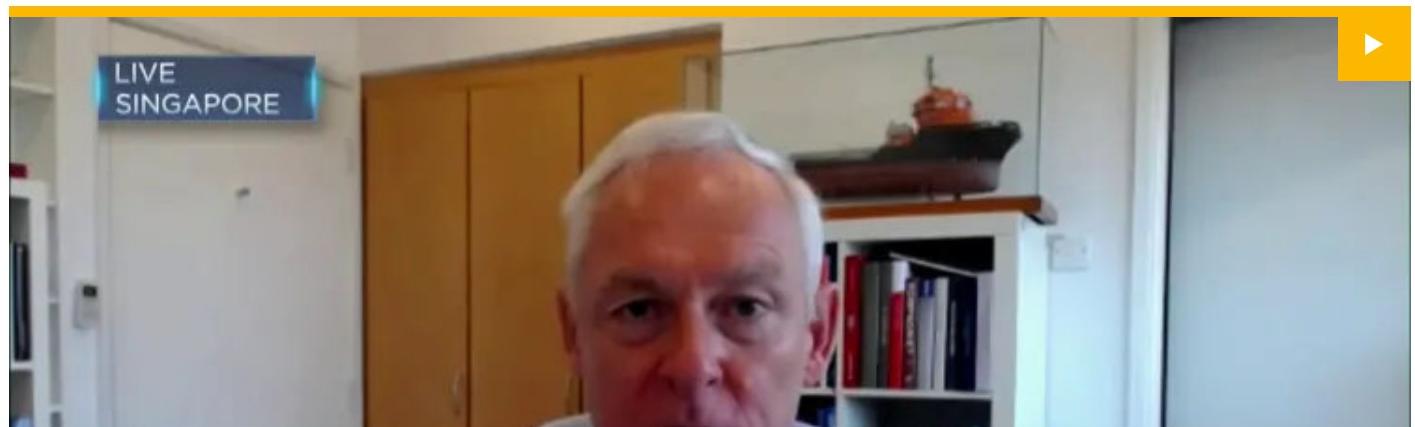
“Reconsider travel to the People’s Republic of China (PRC) due to arbitrary enforcement of local laws and COVID-19-related restrictions,” the State Department said.

“Do not travel to the PRC’s Hong Kong Special Administrative Region (SAR), Jilin province, and Shanghai municipality due to COVID-19-related restrictions, including the risk of parents and children being separated,” the statement said. “Reconsider travel to the PRC’s Hong Kong SAR due to arbitrary enforcement of local laws.”

The State Department announcement followed one over the weekend by the U.S. Mission China in Beijing that said non-emergency U.S. government employees and family members of emergency and non-emergency U.S. government employees could leave Shanghai voluntarily.

The U.S. had issued a travel advisory on April 8 with the same language on warnings about “arbitrary enforcement of local laws” and Covid-19 restrictions.

China is “strongly dissatisfied” with and “firmly opposes” the United States’ “groundless accusation” of China’s Covid policy, Foreign Ministry spokesperson Zhao Lijian said Saturday, according to a CNBC translation of the Chinese statement.



U.S. State Department orders all non-emergency government staff in Shanghai to leave as COVID surges

VIDEO 02:06

Supply chains are facing a 'perfect storm': International Chamber of Shipping

He said the announcement for voluntary evacuation was the U.S.'s own decision, and that the Chinese side has assisted foreign diplomats and consular staff on Covid-related issues as much as policy allowed.

In the last several weeks, [mainland China has faced its worst Covid outbreak](#) since the initial phase of the pandemic in early 2020.

While cases have been reported across the country, the northern province of Jilin and the southeastern city of Shanghai are among the hardest hit, with local authorities imposing stringent stay-home measures and travel restrictions in an attempt to control the outbreaks.

Last week, Shanghai authorities eased quarantine measures that had separated parents from their children. This week, the city announced a phased process for easing lockdowns.

The city had attempted one of the most targeted Covid control policies to control a spike in cases since late February, but eventually locked down the city in two stages beginning in late March — in the name of conducting mass testing.

Shanghai is a hub for many foreign businesses in China, while Jilin is home to many auto factories.

"The employees and family members will depart on commercial flights," U.S. Mission China said Tuesday in a separate statement. "The Department ordered the departure due to the ongoing COVID-19 outbreak."

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